



CLOSED CASE SUMMARY

ISSUED DATE: JANUARY 16, 2025

FROM: INTERIM DIRECTOR BONNIE GLENN
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2024OPA-0308

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 - Standards and Duties POL-2. Employees Must Adhere to Laws, City Policy, and Department Policy	Not Sustained - Unfounded
# 2	16.090-POL 1 Recording with ICV and BWV 5. Employees Recording Police Activity b. When Sworn Employees Record Activity	Sustained

Imposed Discipline

Written Reprimand

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

The Complainant alleged Named Employee #1 (NE#1) stole \$4,700, prescription medicine, and alcohol from him while searching his backpack incident to a lawful arrest. It was also alleged NE#1 failed to activate his BWV to record searching the Complainant's backpack as required by policy.

ADMINISTRATIVE NOTE:

On November 18, 2024, OIG certified OPA's investigation as thorough, timely, and objective.

SUMMARY OF INVESTIGATION:

The Complainant provided a written complaint to OPA on July 23, 2024. The Complainant wrote that he was arrested at the Capitol Hill Block Party three days prior. The Complainant wrote that officers retrieved his property prior to going to jail. The Complainant wrote that he got his backpack from the Evidence room after he was released from jail. The Complainant wrote that \$4,700, medication, and alcohol was missing from his backpack after he got the items from the Evidence room.

OPA investigated the complaint by reviewing the OPA complaint, computer-aided dispatch (CAD) call report, incident report, body-worn video (BWV), East Precinct video, and King County Jail (KCJ) property forms. OPA also conducted a site visit to the Evidence room and took photographs. OPA reviewed prior OPA complaints filed by the Complainant, including 2023OPA-0103 and 2018OPA-0717. OPA interviewed the Complainant and NE#1.



OPA reviewed the incident report, which was submitted by the arresting officer. The report noted that the Complainant was arrested for assault. There was no mention of the Complainant's property in the report narrative, except that the Complainant was searched incident to arrest. Attached to the incident report was a property supplement from NE#1. The property supplement listed "Backpack with personal property" and "Prescription drugs for [Complainant's name]". The property supplement showed the backpack was released to the Complainant. The property supplement also showed the prescription drugs were in safekeeping at the Evidence Unit but did not list what they were.

OPA reviewed NE#1's BWV for this incident. NE#1 did not have BWV showing the beginning of this incident. NE#1's BWV began when the Complainant was already in handcuffs and NE#1 was standing next to him. At that time, the Complainant was wearing a backpack and a pouch over his shoulders. NE#1's BWV showed him searching the Complainant's pockets and placing the items he removed from the Complainant's pockets on the hood of a patrol vehicle. These items were placed in a brown paper bag by Officer #1 who transported the Complainant to KCJ. Officer #1's BWV showed him inventorying these items before taking them to KCJ.

After the Complainant was transported to KCJ, NE#1's BWV showed him telling other officers that he was going to take the Complainant's backpack to the East Precinct and place it in safekeeping. NE#1 then walked to the East Precinct. Shortly after his arrival at the East Precinct, NE#1 told other officers that the Complainant had a lot of cash in his pockets and that he expected to find drugs in the Complainant's backpack. NE#1 then turned off his BWV as he entered the precinct building.

OPA was unable to locate any BWV or photographs showing the search of the Complainant's backpack. No prescription medication bottles were removed from the Complainant's pockets during the search of his pockets at the patrol vehicle. Because NE#1 placed prescription medications for the Complainant into safekeeping separate from his backpack, it appeared that NE#1 searched the Complainant's backpack without recording the search.

OPA sent a request to the SPD Video Unit for security camera footage that may show the search of the backpack. A member of SPD's Video Unit searched East Precinct security video and located video of NE#1 entering the precinct and video of the backpack in the East Precinct property holding area. The Video Unit member was unable to locate any video showing the search of the backpack.

On August 6, 2024, OPA took a recorded interview of the Complainant about his complaint. In the recorded interview the Complainant said that he had \$4,700 in cash, two bottles of tequila, an unknown quantity of marijuana, and prescription medications in his backpack. During the interview, the Complainant said that the medications missing from his backpack were Percocet (a combination of Oxycodone and acetaminophen), Amlodipine, and Gabapentin. OPA informed the Complainant that the SPD Evidence Unit had prescription medications in storage for him as safekeeping. The Complainant also said that SPD had previously taken bottles of alcohol from him that were never returned to him.

Later on August 6, 2024, OPA responded to the SPD Evidence Unit and reviewed the prescription medications held as safekeeping for the Complainant. The narcotics envelope had NE#1's serial number and signature on the outside. Inside the narcotics envelope were a prescription bottle of Percocet and two bottles of Cyclobenzaprine. OPA photographed the packaging envelope and contents for the OPA investigation.



OPA requested property forms from KCJ for the Complainant's arrest and release. The property forms show that the Complainant had \$713.67 in his pockets when he was arrested, along with his clothing items, several cards, and a necklace. These items were inventoried by Officer #1 on his BWV camera. During OPA's interview with the Complainant, OPA confirmed that these items were returned to him by KCJ. The property forms did not document any further money, alcohol, or marijuana.

OPA previously investigated a complaint from the Complainant where he alleged that SPD officers stole bottles of Scotch and Hennessy from him. This was documented in 2023OPA-0103. In that expedited investigation,¹ OPA reviewed BWV and determined that the BWV did not show any missing bottles of Scotch and Hennessy.

In his OPA interview, NE#1 recalled searching the Complainant's backpack and finding a jacket, some papers, a lanyard, and some prescriptions medication bottles. NE#1 stated the prescriptions bottles were the only ones he took out of the backpack. NE#1 admitted he did not activate his BWV because he searched the backpack in the East Precinct report room, which does not have cameras because it's where officers discuss cases and write up confidential information. NE#1 stated he did not take any photographs because he was busy and forgot. NE#1 could not remember if anything else was in the backpack, and stated if his name was on the custodial property report then he completed it. NE#1 did not recall finding any cash, Amlodipine, Gabapentin, two bottles of tequila, and marijuana from the backpack. NE#1 said, if he removed such items, he would have disposed of the alcohol, put money and drugs into their respective property envelopes and submitted them as evidence. NE#1 said he could not explain why his BWV did not record the beginning of the incident. He admitted he did not comply with the BWV policy. NE#1 denied stealing any property.

ANALYSIS AND CONCLUSIONS:

Named Employee #1 – Allegation #1

5.001 - Standards and Duties POL-2. Employees Must Adhere to Laws, City Policy, and Department Policy

The Complainant alleged that NE#1 stole his property, including \$4,700, prescription medicine, and alcohol while searching his backpack incident to a lawful arrest.

SPD Policy 5.001-POL-2 requires that employees adhere to laws, City policy, and Department policy.

This allegation is unfounded. NE#1 denied stealing any property from CM#1. Although NE#1 failed to record his search—a policy violation addressed below at Allegation #2—OPA does not credit the Complainant's allegation.

The Complainant is not credible. Since 2015, the Complainant has filed over ten OPA cases, none of which were sustained. In most of his cases, NE#1's allegations are determined to be demonstrably false, including four cases processed as expedited investigations and a recent fourth case currently under review by OIG to be expedited. 2023OPA-0103 involved similar allegations that officer stole the Complainant's property—the evidence showed that the Complainant grossly misrepresented the property he possessed at the time of his arrest. In 2018OPA-0717, the then OPA-director wrote the following:

¹ OPA may classify a case for expedited investigation when, with the agreement of OIG, it "determines that findings can be reached based on the intake investigation, and no further investigation needs to be conducted." OPA Internal Operations and Training Manual 5.4(B)(iv). The most common reason for this designation is when the "evidence shows that misconduct did not occur as alleged." *Id.* This was the case in 2023OPA-0103.



I further note that this is not the first time that the Complainant has filed an OPA complaint concerning law enforcement action taken against him at Safeco Field. Indeed, he has done so repeatedly. In all of those complaints, it is abundantly clear that the Complainant has consistently violated clearly established legal authority that precludes him from selling tickets illegally. While he may not agree with that ordinance, it does not make it any less of requirement that he comply with the law. ***Moreover, his filing of numerous unfounded OPA complaints suggests that he is using the disciplinary system in order to retaliate against the officers who are permissibly enforcing the law and to prevent them from stopping his illegal acts.*** This is unacceptable and will not be countenanced by OPA. (emphasis added).

In short, through his many unfounded complaints, the Complainant has demonstrated that he is both untrustworthy and motivated to use the OPA process for retaliation. It is important to note, OPA reviews each case individually based on the evidence provided; however, credibility determinations are sometimes needed in review of factors to include their demeanor, consistency of testimony, corroborating evidence, and their ability to recall, and potential bias or interest in the outcome.

In the present case, the Complainant's story in this case is suspect. He claimed that he was arrested with about \$4,700 in cash in his backpack. He also claimed that SPD officers have stolen from him in the past (allegations that were determined to be false). BWV showed the Complainant discussing the officers' removal of his backpack; he was aware they were taking it. And yet the Complainant made no mention on BWV of the contents of his bag, nor did he demand it be searched in his presence. Relatedly, the Complainant expects OPA to take him at his word that he remembered the exact contents of his backpack, but he misremembered the prescriptions that were demonstrably found in his backpack.

In making a credibility determination, based on the evidence provided and in review of the above factors, OPA finds NE#1 more credible based on a preponderance of the evidence, that he did not steal anything from the Complainant.

Accordingly, OPA recommends this allegation be Not Sustained – Unfounded.

Recommended Finding: **Not Sustained – Unfounded**

Named Employee #1 – Allegation #2

16.090-POL 1 Recording with ICV and BWV 5. Employees Recording Police Activity b. When Sworn Employees Record Activity

It was alleged that NE#1 failed to activate his BWV when required to do so.

SPD Policy 16.090-POL-2(2)² states that when safe and practical, employees will record “dispatched calls, starting before the employee arrives on the call to ensure adequate time to turn on cameras,” as well as “searches and

² OPA correctly listed the title (16) and section (16.090) of the alleged misconduct in the classification report. See SPOG CBA 3.6(A) (requiring a classification report to list, at minimum, the title and section of the alleged misconduct). But OPA mistakenly used an old numbering system for this allegation that existed prior to July 1, 2023. Specifically, OPA listed 16.090-POL-1(5)(b) instead of 16.090-POL-2(2), which was the correct numbering on the incident date. The relevant requirements are the same in both policies.



inventories of vehicles, persons, or premises,” and the “handling and counting of currency up to the point it is sealed in a currency envelope or air-dry bag.” *Id.*

This allegation is sustained. Even though OPA does not credit the Complainant’s allegations, this does not excuse NE#1’s failure to activate his BWV when required to do so. If anything, this situation demonstrates the importance of following procedure when searching an arrestee incident to a lawful arrest.

NE#1 violated this policy by not activating his BWV prior to arriving on the call, and then keeping his BWV activated throughout the dispatched call, including the search of the backpack recovered from the Complainant’s person incident to lawful arrest. This is especially confusing because NE#1 noted that officers had already recovered a large amount of cash from the Complainant and NE#1 said he expected to find narcotics in the bag. Both policy and commons sense required NE#1 to leave his BWV activated during the search.

NE#1 acknowledged he violated this policy, and OPA appreciates his candor. NE#1 explained that he did not activate his BWV because he conducted the search in the report room. SPOG requested OPA process this allegation as a Management Action Recommendation (MAR) to have the evidence packaging materials moved out of the report room, which is not covered by surveillance cameras. SPOG’s suggestion is sensible, and OPA notes it for review by the chain of command. But OPA declined to process this allegation as a MAR. NE#1 was required to comply with SPD’s BWV policy. The inconvenience presented of searching the backpack in a different area where he could record then retrieving—or asking another officer to retrieve—any needed packaging materials does not excuse his omission here.

Accordingly, OPA recommends this allegation be Sustained.

Recommended Finding: **Sustained**